

# Icasa changes draw criticism

Proposed amendments to the Independent Communications Authority of SA (Icasa) Act, have been strongly criticised by industry commentators who say it will erode the independence of the regulator.



Image: GCS

Icasa regulates the broadcasting and telecommunications sectors, deals with non-compliance by licensed operators, and has a complaint and compliance division that allows the public to raise concerns against regulated entities.

Last week Icasa said it would look into allegations of blacklisting at the SABC.

Communications Minister Dina Pule has published proposed amendments to the Icasa Act for public comment.

She has said the amendments would strengthen the regulatory body.

Among the proposals, the minister seeks to establish a complaints and compliance commission to replace the complaints and existing committee and to introduce mechanisms to ensure the accountability of committees, including Icasa councillors.

Kathleen Rice, director for technology media and telecoms at Cliffe Dekker Hofmeyr, said while Icasa would still grant and issue licences, the commission would have the power to "direct" Icasa to amend or revoke licences, a move at odds with provisions contained in the Electronic Communications Act (ECA).

The ECA sets out the powers of Icasa and the minister and specifically precludes the minister from making policy regarding the granting, amendment transfer, renewal suspension or revocation of a licence.

"The establishment of the commission is not a delegation of Icasa's powers but rather an expropriation of those powers," Rice said. She said the minister's proposed amendments were "directly contrary to the constitutional guarantee of an

independent regulator in addition to threatening constitutionally guaranteed human rights".

Democratic Alliance communications spokesman Marian Shinn said the amendment "seems to be a hasty attempt to emasculate Icasa" before the information and communications technology (ICT) policy review had even started.

Such fundamental changes to the role of Icasa should not be undertaken before the ICT policy review is complete and "found broad acceptance by the ICT sector", she said.

"The focus should rather be on fixing the authority and enhancing its resources and capabilities so it can concentrate on ensuring appropriate and affordable spectrum is made widely available to those organisations who can best use it," Shinn said.

Pule said she welcomed criticisms and asked for written comments, which would be taken into consideration before a final decision was made.

"Sometimes maybe this (attempt to change Icasa's role and establish a commission) is the only option that I have to strengthen Icasa, but the public process will inform us on what other solutions are there," she said.

Pule and her department have embarked on a review of ICT policy, with the first draft expected next year. She said waiting for the review to be completed would delay some processes that needed urgent attention until this is done.

Rice was also concerned that the Icasa Amendment Bill was published during the holiday season, with comments due by 10 January although she conceded that any request for an extension would be looked into.

Source: *Business Day* via I-Net Bridge

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